REMARKS

Claim 16 has been amended above to overcome the examiner's objection.

Claims 1 and 5-8 were rejected under 35 U.S.C. §103(a) as being unpatentable over Thompson et al. (US 5,267,312) in view of Hsu et al. (US 6,041,410). Claims 2-4 were rejected under 35 U.S.C. §103(a) as being unpatentable over Thompson et al. (US 5,267,312) in view of Hsu et al. (US 6,041,410) and Neoh (US 6,668,204). Claims 9-11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Neoh (US 6,668,204) in view of Dabbish et al. (US 4,914,697) and Thompson et al. (US 5,267,312). Claims 12-17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Thompson et al. (US 5,267,312) in view of Hsu et al. (US 6,041,410) and Neoh (US 6,668,204). The examiner is requested to reconsider these rejections.

Claim 1 claims an encrypted audio decryption system for decrypting encrypted audio sound comprising

> "a hearing device adapted to receive the encrypted audio sound, decrypt the encrypted audio sound, and transmit signals corresponding to the decrypted audio sound to an acoustic transducer of the hearing device; and
>
> a key FOB adapted to transmit a decryption key to the hearing device...".

Thompson et al. discloses an audio signal cryptographic system having a subscriber box 22 used with video and audio signals such as cable or satellite television signals. As described

in column 9, lines 40-55 of Thompson et al., the subscriber box 22 has multiple decryption keys (DE-Keys). Each audio frame 131 has information identifying a pre-specified one of the multiple decryption keys (DE-Keys) which is embedded in the independent data portion 131f (ID) of each audio frame 131. Multiple decryption keys (DE-Keys) are used to make sure no one key can be used to decode the signal, and real-time decoding must occur for each audio/video frame for that frame to be decrypted.

Hsu et al., on the other hand, merely discloses a fob for verifying a person's identity before granting access. Hsu et al. is designed to authenticate a user, whereas Thompson et al. is for subscriber box descrambling. There appears to be no suggestion to combine the references as the examiner is attempting to do.

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention **where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.** (see MPEP 2143.01, page 2100-98, column 1). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination (see MPEP 2143.01, page 2100-98, column 2).

In the present case, there appears to be no suggestion why a person skilled in the art would want to replace the decoding system of the subscriber box 22 in Thompson et al. with a user

authentication system such as described in Hsu et al. Where in the cited art is there a suggestion to restrict viewing of the television signals described in Thompson et al. to be viewed only when a user is near the subscriber box 22 with a fob? This would not appear to make sense since the television signals in Thompson et al. are intended to be viewed by anyone with a subscriber box 22 (multiple locations and users) regardless of who is located in the proximity of the subscriber box 22. Changing the frame-by-frame decryption keys (DE-Keys) embedding disclosed in Thompson et al. would appear to go against the teaching of Thompson et al. to have real-time frame-by-frame varied encoding. There appears to be no suggestion to combine the teachings of Hsu et al. with Thompson et al. The suggestion only appears to occur after reading applicants' patent application. Therefore, the examiner is requested to reconsider his rejection of claims 1 and 5-8 based upon Thompson et al. and Hsu et al.

Though dependent claims 2-8 contain their own allowable subject matter, these claims should at least be allowable due to their dependence from allowable claim 1. However, to expedite prosecution at this time, no further comment will be made.

In regard to claim 3 applicants' attorney also hereby challenges the examiner's "Official Notice" mentioned on the page 3 of the office action. In accordance with MPEP §2144.03 the examiner is requested to cite a reference in support of his position. The combination of features recited in claim 3 is not disclosed or suggested in the prior art.

Claim 9 claims an audio hearing device comprising:

> a microphone;
>
> a system for decrypting encrypted audio sounds received at the microphone; and
>
> an acoustic transducer adapted to be placed at a user's ear, the acoustic transducer being connected to the decrypting system for transmitting decrypting audio sounds from the acoustic transducer to a user's ear…".

The examiner stated that "Thompson et al. teach an acoustic transducer adapted to be placed at a user's ear, the acoustic transducer being connected to the decrypting system for transmitting decrypting audio sounds from the acoustic transducer to a user's ear." However, the columns and line numbers cited by the examiner do not appear to disclose this. Thompson et al. merely discloses a television set (see Fig. 2A). Similar to that noted above, there appears no suggestion to combine the references as the examiner has attempted to do. Why would a person skilled in the art combine Dabbish et al. with Neoh? Why would a person skilled in the art then go on to combine the television cryptographic system of Thompson et al. with Dabbish et al. with Neoh? The suggestion only comes after reading applicants' patent application. Otherwise, there is no suggestion in the cited art to combine their teachings in the manner the examiner is attempting to do.

A statement that modifications of the prior art to meet the claimed invention would have been "well within the ordinary skill of the art at the time the claimed invention was made"

because the references relied upon teach that all aspects of the claimed invention were individually known in the art is **not sufficient** to establish a prima facie case of obviousness without some objective reason to combine the teachings of the references. (see MPEP 2143.01, page 2100-99, column 1) Ex parte Levengood, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993). >See also Al-Site Corp. v. VSI Int'l Inc., 174 F.3d 1308, 50 USPQ2d 1161 (Fed. Cir. 1999) (The level of skill in the art cannot be relied upon to provide the suggestion to combine references.) The examiner has pointed to no objective reason to combine the teachings of the references. Therefore, in accordance with MPEP 2143.01, the examiner should reconsider his rejection.

Though dependent claims 10-11 contain their own allowable subject matter, these claims should at least be allowable due to their dependence from allowable claim 9. However, to expedite prosecution at this time, no further comment will be made.

Claim 12 is a method claim. Claim 12 claims receiving the encrypted audio sounds at a hearing device having an acoustic transducer at an ear of a user. Nowhere in Thompson et al., Hsu et al. and Neoh is there a disclosure or suggestion of **receiving encrypted audio sounds at a hearing device having an acoustic transducer at an ear of a user**. Thompson et al. discloses audio signals which are encrypted, but they are decrypted by the subscriber box 22 before they are sent to the speakers 136a, 136b of the television. There is no disclosure or suggestion in the cited art of a hearing device having an acoustic transducer (or similar device) at an ear of a user

receiving encrypted audio sounds as recited in claim 12. The features of claim 12 are not disclosed or suggested in the cited art. Therefore, claim 12 is patentable and should be allowed.

Though dependent claims 13-17 contain their own allowable subject matter, these claims should at least be allowable due to their dependence from allowable claim 12. However, to expedite prosecution at this time, no further comment will be made.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issue remain, the examiner is invited to call applicants' attorney at the telephone number indicated below.

Respectfully submitted,

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